

House File 645 - Enrolled

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HOUSE FILE 645

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1 3 AN ACT
1 4 RELATING TO THE REGULATION OF LOTTERIES, INCLUDING THE
1 5 DEFINITION OF A LOTTERY, PERMISSIBLE LOTTERIES BY COMMERCIAL
1 6 ORGANIZATIONS, AND THE PROSECUTION OF VIOLATORS.
1 7
1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 10 Section 1. Section 725.12, Code 2005, is amended to read
1 11 as follows:
1 12 725.12 LOTTERIES AND LOTTERY TICKETS == DEFINITION ==
1 13 PROSECUTION.
1 14 1. If any person make or aid in making or establishing, or
1 15 advertise or make public a scheme for a lottery; or advertise,
1 16 offer for sale, sell, distribute, negotiate, dispose of,
1 17 purchase, or receive a ticket or part of a ticket in a lottery
1 18 or number of a ticket in a lottery; or have in the person's
1 19 possession a ticket, part of a ticket, or paper purporting to
1 20 be the number of a ticket of a lottery, with intent to sell or
1 21 dispose of the ticket, part of a ticket, or paper on the
1 22 person's own account or as the agent of another, the person
1 23 commits a serious misdemeanor. However, this section does not
1 24 prohibit the advertising of a lottery or possession by a
1 25 person of a lottery ticket, part of a ticket, or number of a
1 26 lottery ticket from a lottery legally operated or permitted
1 27 under the laws of another jurisdiction. This section also
1 28 does not prohibit the advertising of a lottery, game of
1 29 chance, contest, or activity conducted by a not-for-profit
1 30 organization that would qualify as tax exempt under section
1 31 501 of the Internal Revenue Code, as defined in section 422.3,
1 32 or conducted by a commercial organization as a promotional
1 33 activity ~~by a commercial organization~~ which is clearly
1 34 occasional and ancillary to the primary business of that
1 35 organization, provided that the effective dates on any
2 1 promotional activity shall be clearly stated on all
2 2 promotional materials. A lottery, game of chance, contest, or
2 3 activity shall be presumed to be a promotional activity which
2 4 is not occasional if the lottery, game of chance, contest, or
2 5 activity is in effect or available to the public for a period
2 6 of more than ninety days within a one-year period.
2 7 2. A commercial organization shall not conduct a
2 8 promotional activity that involves the sale of pull-tab
2 9 tickets or instant tickets, as defined in section 99G.3,
2 10 coupons, or tokens that are not authorized by the Iowa lottery
2 11 authority and that may represent a chance to win a cash prize
2 12 to be paid on the premises where the chance to win such prize
2 13 was obtained. This subsection shall not be construed to
2 14 prohibit a commercial organization from giving away pull-tab
2 15 tickets, instant tickets, coupons, or tokens free of charge as
2 16 part of a promotional activity, provided that the other
2 17 provisions of this section are complied with. For purposes of
2 18 this subsection, "cash" means United States currency.
2 19 3. When used in this section, "lottery" shall mean any
2 20 scheme, arrangement, or plan whereby ~~a prize is one or more~~
2 21 ~~prizes are~~ awarded by chance or any process involving a
2 22 substantial element of chance to a participant ~~who has, and~~
2 23 ~~where some or all participants have~~ paid or furnished a
2 24 consideration for such chance.
2 25 4. For the purpose of determining the existence of a
2 26 lottery under this section, a consideration shall not be
2 27 deemed to have been paid or furnished where all or
2 28 substantially all entries representing chances to win are
2 29 submitted by means of the internet or the United States mail
2 30 or by similar delivery method to the person or persons
2 31 conducting the lottery, game of chance, contest, or activity
2 32 prior to any prize being awarded, and where one or more of
2 33 such chances to win may be obtained by participants where no
2 34 purchase or payment is required to enter or win. In all other
2 35 cases, a consideration shall be deemed to have been paid or
3 1 furnished only in such cases where as a direct or indirect
3 2 requirement or condition of obtaining a chance to win a prize,
3 3 the one or more prizes, some or all participants are required
3 4 to make an expenditure of money or something of monetary value
3 5 through a purchase, payment of an entry or admission fee, or

3 6 other payment or the participants are required to make a
3 7 substantial expenditure of effort; provided, however, that no
3 8 substantial expenditure of effort shall be deemed to have been
3 9 expended by any participant solely by reason of the
3 10 registration of the participant's name, address, and related
3 11 information, the obtaining of an entry blank or participation
3 12 sheet, by permitting or taking part in a demonstration of any
3 13 article or commodity, by making a personal examination of
3 14 posted lists of prize winners, or by acts of a comparable
3 15 nature, whether performed or accomplished in person at any
3 16 store, place of business, or other designated location,
3 17 through the mails, or by telephone; and further provided, that
3 18 no participant shall be required to be present in person or by
3 19 representative at any designated location at the time of the
3 20 determination of the winner of the prize, and that the winner
3 21 shall be notified either by the same method used to
3 22 communicate the offering of the prize or by regular mail.

3 23 5. Upon request of the Iowa lottery authority or the
3 24 division of criminal investigation of the department of public
3 25 safety, the attorney general shall institute in the name of
3 26 the state the proper proceedings against a person charged in
3 27 such request with violating this section, and a county
3 28 attorney may, at the request of the attorney general, appear
3 29 and prosecute an action when brought in the county attorney's
3 30 county.

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3 35 CHRISTOPHER C. RANTS
Speaker of the House

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4 5 JOHN P. KIBBIE
4 6 President of the Senate

4 7 I hereby certify that this bill originated in the House and
4 8 is known as House File 645, Eighty-first General Assembly.

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4 13 MARGARET THOMSON
Chief Clerk of the House

4 14 Approved _____, 2005

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4 18 THOMAS J. VILSACK
4 19 Governor